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Reply dated 28 June 2005
Responsive to Office Action mailed on 7 April 2005

REMARKS

Amendment to the Description

A paragraph on page 8 of the specification as originally filed has been amended to correct an inadvertent typographical error by replacing "bosy" with "body" in the phrase "an elevated core ~~bosy~~ body temperature". Support for this change is found throughout the specification as originally filed, including on page 4 at lines 10 and 11, where it is recited that "[t]he article of the present invention...comprises a fever indicator...that provides a...signal of an elevated core body temperature of the wearer of the article."

Amendment to the Claims

Independent Claims 1, 10, and 19 have been amended to recite that the fever indicator comprises a temperature sensitive component and an indicating component, as disclosed in the paragraph beginning on page 6 at line 12 of the specification as originally filed. The temperature sensitive component is recited as covering the indicating component, which it is disclosed to do in the embodiments in which the indicating component has the form of particles suspended in the temperature sensitive component (page 6, lines 17-18; Figures 5 and 6) and in the embodiment in which the indicating component has the form of a thin layer (page 7, lines 27-30). The temperature sensitive component is recited as preventing wetting of the indicating component in its initial state, this functionality being apparent from the entire disclosure, including on page 7 at lines 30 through 33. The temperature sensitive component is recited to melt at a predetermined threshold temperature, as disclosed on page 6 at lines 22-23. This melting of the temperature sensitive component is recited as allowing wetting of the indicating component, this functionality being apparent from the entire disclosure, including by contrast to the disclosure on page 7 at lines 30-33 and on page 8 at lines 10-11. This wetting being by urine expelled from the wearer is recited, this fact being apparent from the entire disclosure, including on page 4 at line 17 through page 5 at line 10, on page 5 at line 31-33, on page 7 at line 5-8, on page 8 at lines 6-20, and on page 10 at lines 20-22. The indicating component is recited as changing in appearance when wetted, as disclosed throughout the specification, including on page 7 at lines 5-8. This change in appearance is recited as providing a visible signal, as disclosed throughout the specification, including in the original wording of each of these independent claims.

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Claims 3 and 14 have been amended to recite that the visible signal is a color change, as disclosed on page 4 at lines 34-38, on page 5 at line 20, on page 7 at line 6, and on page 10 at lines 5-6 and 21.

Claims 4, 15, and 20 have been amended to delete the recitation of a temperature sensitive component in light of the recitation of this element in the amended independent claims from which these claims respectively depend.

Claim 11 has been amended to recite that the fever indicator is affixed to the topsheet rather than being disposed on the topsheet, in order to more closely conform the wording to that found throughout the specification, including on page 6 at line 3.

Claim Rejections Under 35 U.S.C. § 112

Claims 1-7, 9-16, and 18-20, i.e., all of the pending claims, were rejected under 35 U.S.C. 112, first paragraph, on the basis that the specification does not provide support for the recitation of an audible signal or that the signal is provided only when urine is present. These rejections are hereby respectfully traversed. However, both of these limitations have been deleted from the relevant claims in the amendment to the claims in this Reply, thereby obviating these rejections. Accordingly, it is respectfully requested that the rejections of **Claims 1-7, 9-16, and 18-20** under 35 USC § 112 be reconsidered and withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 1 through 7, 10 through 16, 19, and 20 were rejected under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,222,809 to Ehrenkranz.

Each of the three independent **Claims 1, 10, and 19**, from which the other rejected claims depend, has been amended in this Reply to recite that the fever indicator comprises a temperature sensitive component that covers and thereby prevents the wetting of an indicator component until the temperature sensitive component melts at a predetermined threshold temperature and thereby allows the wetting of the indicator component, and that the indicating component changes in appearance when wetted and thereby provides a visible signal. Thus, the temperature sensitive

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component and the indicator component are recited to be distinct structural elements arranged in a particular physical arrangement and having particular physical functionalities. Specifically, the only time that the visible signal is provided is when the temperature sensitive component has been melted and the indicator component has been wetted, *i.e.*, both conditions must be met.

In contrast, the cited Ehrenkranz reference fails to disclose the claimed elements or their functionalities. Specifically, other than an obviously irrelevant electronic sensor, the only temperature sensitive component disclosed in the Ehrenkranz reference is the element in the "sensor 15" that is identified as a "temperature sensitive chemical deposit 46" (column 3, lines 49-50) and is explicitly described as a liquid crystal strip thermometer or a melting point thermometer, preferably the latter (column 3, lines 28-38). Thus, Ehrenkranz's temperature sensitive component is, itself, the indicating component, rather than being a distinct structural element. Clearly, this component does not cover itself. Also clearly, this component does not melt in use, much less at a predetermined threshold temperature. In either form, *i.e.*, as either a liquid crystal strip thermometer or a melting point thermometer, this component does not change appearance when wetted.

Furthermore, Ehrenkranz's chemical thermometer will indicate whatever temperature it is subjected to, regardless of whether its condition is wet or dry. This difference reveals an advantage of the present invention over the disclosure of the Ehrenkranz reference. As clearly explained in the paragraph beginning on page 5 at line 3 of the present Application, the present invention will not provide false signals by responding to high temperatures while in a dry condition, such as might be encountered inside an automobile on a hot sunny day. On the other hand, the Ehrenkranz reference reveals no recognition of such a potential problem and instead provides a signal whenever activated by a high temperature, regardless of whether the condition is wet or dry.

The cited Ehrenkranz reference does disclose a wetness indicator (column 4, lines 29-42), but this wetness indicator functions completely independently of the temperature indicator. Thus, this wetness indicator indicates wetness even when the temperature indicator is not indicating a high temperature and, conversely, the temperature indicator indicates a high temperature even

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when the wetness indicator is not indicating wetness. In fact, the independent functionality is consistent with the purpose of this wetness indicator, which is to indicate that urination has occurred and thereby "avoid having to repeatedly open and close a diaper to inspect the contents" (column 4, lines 36-38). In other words, the wetness indicator merely lets the caregiver know that it is time to check the hidden temperature indicator.

In addition to failing to disclose all of the elements of the independent claims, the cited Ehrenkranz reference fails to mention a urine sensitive component that dissolves upon contact with urine, as in dependent Claim 7.

In the Office Action, it was stated that "[a]s to claims 6 and 16, see col. 3, lines 3-7." The sole limitation in Claims 6 and 16 is that the fever indicator is disposed on a carrier element. However, the referenced portion of the disclosure of the Ehrenkranz reference describes the "upper assembly" of the "collection device 10". In light of the fact that the sensor 15 of Ehrenkranz is disposed in or on the "sump or reservoir 14" and not in or on the upper assembly, the pertinence of the statement in the Office Action is not understood.

In summary with regard to these rejections, the cited Ehrenkranz reference fails to teach every element of any of the rejected claims and therefore fails to anticipate any of these claims. Accordingly, it is respectfully requested that the rejections of Claims 1 through 7, 10 through 16, 19, and 20 under 35 USC § 102(b) be reconsidered and withdrawn.

Claim Rejections Under 35 U.S.C. § 103

Claims 9 and 18 were rejected under 35 USC § 103(a) as being unpatentable over the same Ehrenkranz reference in view of U.S. Patent No. 5,713,881 to Rezai *et al.*

The requirements of MPEP 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to either of the rejected claims. Specifically, as noted above, the Ehrenkranz reference fails to teach or suggest all of the limitations of independent Claims 1 and 10 as amended, from which Claims 9 and 18 respectively depend. The Rezai *et al.* reference likewise fails to teach or suggest any of the missing limitations and thus fails to remedy the

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shortcomings of the Ehrenkranz reference. The references similarly fail to provide any suggestion or motivation to modify their teachings and thereby make the present invention.

Thus, at least two of the three requirements of MPEP 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to either of the rejected claims. Accordingly, it is respectfully requested that the rejections of Claims 9 and 18 under 35 USC § 103(a) be reconsidered and withdrawn.

Request for Allowance

In light of the above amendments and remarks, it is respectfully requested that the rejections be reconsidered and withdrawn and that the pending claims be allowed.

Respectfully submitted,

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